1 2 3 4 5 6 7 8 9	McGuireWoods LLP Matthew C. Kane (SBN 171829) Email: mkane@mcguirewoods.com Bethany A. Pelliconi (SBN 182920) Email: bpelliconi@mcguirewoods.com Sylvia J. Kim (SBN 258363) Email: skim@mcguirewoods.com 1800 Century Park East, 8 <sup>th</sup> Floor Los Angeles, California 90067 Telephone: (310) 315-8200 Facsimile: (310) 315-8210  Attorneys for Defendants MERRILL LYNCH & CO., INC. and MERRILL LYNCH, PIERCE, FENNER & SMI	,	OURT	
10	SOUTHERN DISTRI	CT OF CALIFORNIA		
11	TREVOR CALLAN, TIMOTHY CALLAN and RYAN CALLAN, individually and on	CASE NO. 09-CV-0566 BEN (WMc)		
12	behalf of all others similarly situated,		ION OF MATTTHEW C. PPORT OF MERRILL	
13	Plaintiffs,	LYNCH DEF	TENDANTS'	
14	vs.	<b>PLEADINGS</b>	OR JUDGMENT ON THE S OR, IN THE	
15	MERRILL LYNCH & CO., INC., ET AL.,		IVE, FOR SUMMARY OR PARTIAL SUMMARY	
16	Defendants.	Date:	June 28, 2010	
17		Time: Courtroom:	10:30 a.m.	
18		Judge:	Hon. Roger T. Benitez	
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## **DECLARATION OF MATTHEW C. KANE**

I, MATTHEW C. KANE, declare as follows:

1. I am an attorney at law duly authorized and admitted to practice before this Court and the courts of the State of California. I am a partner in the law firm of McGuireWoods LLP, counsel of record for Defendants Merrill Lynch & Co., Inc. and Merrill Lynch, Pierce, Fenner & Smith, Inc. (collectively, the "Merrill Lynch Defendants") in this action. I am over 18 years of age. I have personal knowledge of the facts and matters set forth in this declaration and could and would testify competently and truthfully to the same if called as a witness and placed under oath.

2. I make this declaration in support of the Merrill Lynch Defendants' accompanying Motion For Judgment On The Pleadings Or, In The Alternative, For Summary Judgment Or Partial Summary Judgment (the "Motion").

3. Attached hereto as Exhibit A is a true and correct copy of the Complaint filed in this action on March 19, 2009 (Dkt. #1).

4. Attached hereto as Exhibit B is a true and correct copy of the Order and Final Judgment in *In Re Merrill Lynch & Co., Inc. Securities, Derivative & ERISA Litigation*, Master File No. 07-cv-9633 (JSR)(DFE), Case No. 07-cv-10268 (JSR)(DFE), entered on August 24, 2009 by the United States District Court for the Southern District of New York (Master File Docket Entry No. 253-2).

5. Attached hereto as Exhibit C is a true and correct copy of the Consolidated Supplemental Complaint filed in *In Re Merrill Lynch & Co., Inc. Securities, Derivative & ERISA Litigation*, S.D.N.Y. Master File No. 07-cv-9633 (JSR)(DFE) (Docket Entry No. 109), Case No. 07-cv-10268 (JSR)(DFE) (Docket Entry No. 64).

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1	6. Attached hereto as Exhibit D is a true and correct copy of the Order Granting in		
2	Part and Denying in Part Independent Directors' Motion to Dismiss Complaint entered in this		
3	action on January 22, 2010 (Dkt. #79).		
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5	I declare under penalty of perjury under the laws of the United States of America that the		
6	foregoing is true and correct.		
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8	Executed on May 28, 2010, at Los Angeles, California.		
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10	/s/ Matthew C. Kane MATTHEW C. KANE		
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